IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.788 OF 2007

OFFICE NOTES, OFFICE MEMORANDUM OF CORAM, APPEARANCES, COURT'S ORDERS OR DIRECTIONS AND REGISTRAR'S ORDERS	COURT'S OR JUDGES ORDERS

Shri S.P. Kanuga for the Petitioners.
Ms S.S.Bhende, A.G.P for the State.

CORAM : A. S. OKA, J.

DATE : FEBRUARY 06, 2007.

P.C.:

1. Heard Advocate appearing for the Petitioners. The Petitioners are some of the Defendants who applied under Order VII Rule 11 of the Code of Civil Procedure, 1908 for rejection of plaint. By the order impugned in this Petition under Article 227 of the Constitution of India, the said Application has been rejected. On plain reading of the said Application, it is obvious that clauses (d) of Rule 11 of Order VII will not be applicable as it cannot be said that from the statements made in the plaint, the suit appears to be barred by any law. None of the order clauses namely

clauses (a), (b), (c), (e) and (f) are invoked by the Petitioners. The contentions which are raised at the time of hearing of the Application at Exhibit 39 can be always raised by the Petitioners in the written statement and the Trial Court will frame appropriate issues on the basis of the said contentions.

2. No case is made out for interference. Subject to what is stated above, the Writ Petition is rejected. It is made clear that the contentions raised by the Petitioner in the Application at Exhibit 39, are expressly kept open and notwithstanding the rejection of Application at Exhibit 39, the Petitioners will be entitled to urge the said contentions in the written statement.

JUDGE